

IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE, DIVISION I
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

2005 MAY 31 PM 2:47

STATE OF TENNESSEE

)

DAVID W. HARRIS, CLERK

)

PM DC

vs.

)

No. 2005-D-2854

)

ARTHUR WAYNE MARCH

)

and PERRY AVRAM MARCH

)

DEFENDANT'S MOTION IN LIMINE No. 1

Comes now the Defendant, by and through counsel, pursuant to Rules 12(b) and 47 of the Tennessee Rules of Criminal Procedure and Rule 404(b) of the Tennessee Rules of Evidence, and moves the Court *in limine* to exclude from evidence any and all uncharged crimes, wrongs and acts of the accused except in strict conformity with the procedures specified by Tenn.R.Evid. 404(b). This motion specifically includes, but is not limited to, evidence sought to be adduced by the State during the rebuttal phase of the trial.

As to each uncharged crime, wrong or act sought to be offered by the State, the accused specifically requests a hearing outside the presence of the jury pursuant to Tenn.R.Evid.404(b)(1). The accused requests the Court to make specific findings (separately as to each uncharged crime, wrong or act) as to the existence *vel non* of a material issue other than conduct conforming with a character trait and requests that the

Court state on the record the material issue, the ruling, and the reasons for admitting the challenged evidence.

The accused specifically requests that the Court state with particularity the factual basis for any finding that the State has shown the existence of an uncharged crime, wrong or act by clear and convincing evidence.

As to each uncharged crime, wrong or act sought to be offered by the State, the accused specifically requests factual findings as to whether the probative value of the proffered evidence is outweighed by the danger of unfair prejudice.

THE FOREGOING PREMISES CONSIDERED, the accused moves the Court to exclude evidence of uncharged crimes, wrongs or acts except in strict conformity with the procedures prescribed by Tenn.R.Evid. 404(b).

Respectfully submitted,


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CERTIFICATE OF SERVICE

I certify that a correct and complete copy of the foregoing has been hand-delivered to the Office of the District Attorney General, 222 Second Avenue North, Nashville, Tennessee 37201, this 31st day of May, 2006.


JOHN E. HERBISON